

**Zone Change Burden of Proof  
Zone Change and Conditional Use Permit No. 03-147-(5)  
Clearman's Village**

**As required by County Code Section 22.16.110(A), modified conditions warrant a revision in the zoning plan as it pertains to the subject property because:**

- The pending update to the Countywide General Plan proposes to change the land use designation of the subject property from medium density residential to major commercial. The proposed major commercial designation contemplates major shopping malls and centers and a range of mixed commercial retail and service activities. The Neighborhood Commercial zoning classification is consistent with the proposed land use designation.
- The long-established commercial center at the subject property is aging, and redevelopment of the site is needed to insure the long-term viability of this prominent commercial corner.
- In recent years, the retail stores at the subject property have seen fewer customers and consequently diminished revenues. The property owner would like to redevelop the property to insure the continued viability of the two existing restaurants and Clearman's Village.
- The long-time owner of the site has found an opportunity to partner with Kohl's department store to add a needed and unique shopping opportunity to the local community. To accomplish this project and to provide this potential benefit to the local community, it makes sense for the zoning designation to be made consistent as Neighborhood Commercial throughout the project site.
- Redevelopment of this aging commercial center will significantly upgrade and modernize the appearance of the property and will insure the continued viability of the Galley and the North Woods Inn restaurants, which will enable the applicant to better serve its customers and to continue to employ more than 150 people, many of whom are long-term employees.

**As required by County Code Section 22.16.110(B), a need for the proposed zone classification to Neighborhood Commercial with a Development Program exists for the subject property because:**

- Redevelopment of this aging commercial center will significantly upgrade and modernize the appearance of the property and will insure the continued viability of the Galley and the North Woods Inn restaurants, which will enable the applicant to better serve its customers and to continue to employ more than 150 people, many of whom are long-term employees.

- The long-time owner of the subject property has found an opportunity to partner with Kohl's department store to add a needed and unique shopping opportunity to the local community. To accomplish this project and to provide this potential benefit to the local community, it makes sense for the zoning designation to be made consistent as Neighborhood Commercial throughout the project site.
- The Neighborhood Commercial zone will allow the development of a new Kohl's department store, which will add a needed and unique shopping opportunity to the local community and will boost the local economy by providing approximately 150 additional high-quality jobs and by generating increased tax revenues that will help fund important public services in the community.
- The Neighborhood Commercial zone will allow the property owner to develop a project that will also allow the applicant to grant to the nearby Fire Station, which has existed at that location for over fifty years, use of approximately 900 square feet of its property at no expense to the County, which will enable the Fire Department to remodel the fire station to be safer and more efficient.
- The core of commercial activity at the intersection of Rosemead Boulevard and Huntington Drive is currently zoned Neighborhood Commercial. The proposed zone change will make this existing commercial corner consistent with the nearby commercial designations.
- The Neighborhood Commercial zone will allow the property owner to develop a project that will enable the property owner to voluntarily contribute \$250,000 to assist in the construction of aesthetic improvements to the median along Rosemead Boulevard from Huntington Drive to California Avenue. This half-mile stretch of Rosemead Boulevard is the segment closest to the project site and its visual restoration has been a concern to area residents for many years.

**As required by County Code Section 22.16.110(C), the subject property is a proper location for the Neighborhood Commercial and Development Program zone classification because:**

- The project site is located at the intersection of Rosemead Boulevard, a State Route Major Highway, and Huntington Drive, a ten-lane parkway. Other commercial uses nearby this major intersection include restaurants, a bank, liquor store, grocery store, fast food restaurant, smog check station, dry cleaners, dental center, office building and other retail uses. Additional commercial land uses and shopping centers are located along Huntington Drive and Rosemead Boulevard, within the vicinity of the project site.

- The development of a Kohl's department store and the preservation of two restaurants at this location is consistent with the community pattern of commercial development along these two major thoroughfares at this prominent corner.
- The Development Program combining zone designation requires that a conditional use permit be obtained concurrently to regulate the specific use proposed. The requested conditional use permit will impose conditions that are specific to the proposed operation of a Kohl's department store and two restaurants. Therefore, only the requested uses will be authorized, and no other uses will be permitted.
- The presence of Limited Multiple Residence zoning adjacent to the subject property is an appropriate buffer from other residential uses in the general area.
- The existing restaurants have been popular in the neighborhood, and the access to a well-known department store is a service needed by the community.
- The subject property has been developed with commercial land uses for many decades.
- Neighborhood Commercial zoning is already present on a portion of the project site, and Neighborhood Commercial zoning is also present on all four corners of the intersection of Rosemead Boulevard and Huntington Drive.

**As required by County Code Section 22.16.100(D), placement of Neighborhood Commercial with a Development Program zone at the subject property will be in the interest of public health, safety and general welfare, and in conformity with good zoning practice because:**

- Neighborhood Commercial zoning throughout the subject property will bring consistency to adjacent commercial properties and it allows for the redevelopment of this aging commercial center.
- The development of a Kohl's department store at this location will bring access to goods and services that the community needs.
- The long-established commercial center at the subject property is aging, and redevelopment of the site is needed to insure the long-term viability of this prominent commercial corner.
- The existing restaurants have served this community for a long time, and the ability to maintain and redevelop the restaurants at this location will serve the public welfare.

- In recent years, the retail stores at Clearman's Village have seen fewer customers and consequently diminished revenues. The property owner would like to redevelop the property to insure the continued viability of the existing restaurants and Clearman's Village.
- The long-time owner of the site has found an opportunity to partner with Kohl's department store to add a needed and unique shopping opportunity to the local community. To accomplish this project and to provide this potential benefit to the local community, it makes sense for the zoning designation to be made consistent as Neighborhood Commercial throughout the project site.
- Redevelopment of this aging commercial center will significantly upgrade and modernize the appearance of the property and will insure the continued viability of the Galley and the North Woods Inn restaurants, which will enable the applicant to better serve its customers and to continue to employ more than 150 people, many of whom are long-term employees.
- The Neighborhood Commercial zone will allow the property owner to develop a project that will also allow the applicant to grant to the nearby Fire Station, which has existed at that location for over fifty years, use of approximately 900 square feet of its property at no expense to the County, which will enable the Fire Department to remodel the fire station to be safer and more efficient.
- The core of commercial activity at the intersection of Rosemead Boulevard and Huntington Drive is currently zoned Neighborhood Commercial. The proposed zone change will make this existing commercial corner consistent with the nearby commercial designations.
- The Neighborhood Commercial zone will allow the property owner to develop a project that will enable the property owner to voluntarily contribute \$250,000 to assist in the construction of aesthetic improvements to the median along Rosemead Boulevard from Huntington Drive to California Avenue. This half-mile stretch of Rosemead Boulevard is the segment closest to the project site and its visual restoration has been a concern to area residents for many years.
- The project site is located at the intersection of Rosemead Boulevard, a State Route Major Highway, and Huntington Drive, a ten-lane parkway. Other commercial uses nearby this major intersection include restaurants, a bank, liquor store, grocery store, fast food restaurant, smog check station, dry cleaners, dental center, office building and other retail uses. Additional commercial land uses and shopping centers are located along Huntington Drive and Rosemead Boulevard, within the vicinity of the project site.

- The development of a Kohl's department store and the preservation of two restaurants at this location is consistent with the community pattern of commercial development along these two major thoroughfares at this prominent corner.
- The Development Program combining zone designation requires that a conditional use permit be obtained concurrently to regulate the specific use proposed. The requested conditional use permit will impose conditions that are specific to the proposed operation of a Kohl's department store and two restaurants. Therefore, only the requested uses will be authorized, and no other uses will be permitted.
- The presence of Limited Multiple Residence zoning adjacent to the subject property is an appropriate buffer from other residential uses in the general area.
- The existing restaurants have been popular in the neighborhood, and the access to a well-known department store is a service needed by the community.
- The subject property has been developed with commercial land uses for many decades.
- Neighborhood Commercial zoning is already present on a portion of the project site, and Neighborhood Commercial zoning is also present on all four corners of the intersection of Rosemead Boulevard and Huntington Drive.

## Zone Change - Burden of Proof

A.

Current zoning on the site consists of C-1, C-2, C-H-DP and R-3, and under the General Plan, the site is designated as "Major Commercial." The R-3 zoning is not consistent with the General Plan's "Major Commercial" designation, a generalized land use classification that describes the dominant use characteristics that are commercial in nature. The "Major Commercial" designation contemplates typical use patterns to include, among others, "major shopping malls and centers" and "a range of mixed commercial retail and service activities." The policy of the Land Use Element is "to place major emphasis on channeling new intensive commercial development into multipurpose centers." The core of commercial activity at the intersection of Rosemead Boulevard and Huntington Drive in the East Pasadena-East San Gabriel community is currently zoned C-2 on all four corners. The proposed project of a department store and two restaurants is the type of commercial activity expected within a "Major Commercial" designation, and the land use pattern on the subject site warrants revision of the zoning to be entirely a C-2 designation. The proposed C-2 zoning on the site implements the General Plan's designation of the area as "Major Commercial." Revising the zoning plan for all 16 parcels within this application is consistent with C-2 zoning on adjacent commercial properties and with the Goal and Policies of the General Plan. C-2 zoning for this site would result in General Plan and zoning consistency.

B.

The General Plan proposes that local commercial uses "should be easily accessible and should be situated at community focal points such as major intersections and established neighborhood shopping facilities." Common ownership of the 16 parcels in this application contains a mix of C-1, C-2, C-H-DP and R-3 zoning, and to be consistent with the "Major Commercial" plan designation as well as neighboring commercial properties, the zone classification for this commercially-designated property should be rezoned entirely C-2. The development of a department store and restaurants is not a permitted use in the R-3 and C-H-DP zones, and while such uses are permitted in the C-1 zone, the C-2 zone is preferred for the neighborhood business zone that has been established by the C-2 zoning on all four corners of the intersection of Huntington Drive and Rosemead Boulevard. The proposed C-2 zone change will facilitate the development of new retail uses and restaurants which are designed to fulfill the Land Use Element policy to "promote neighborhood commercial facilities which provide convenience goods and services and complement community character through appropriate scale, design and locational controls."

C.

The General Plan designates the subject property as "Major Commercial" and C-2 zoning is an appropriate classification for this commercial area, considering that the C-2 zone is applied to all four corners of the intersection of Huntington Drive and Rosemead Boulevard. The General Plan

proposes that local commercial uses "should be easily accessible and should be situated at community focal points such as major intersections and established neighborhood shopping facilities." Rosemead Boulevard is designated as a Major Highway and the Policy of the General Plan encourages "the clustering of well designed highway oriented commercial facilities in appropriate and conveniently spaced locations." The "Major Commercial" plan designation encompasses a limited number of parcels surrounding the major intersection of which the subject property is a part. The presence of existing C-2 zoning on a portion of the subject site as well as current C-2 zoning on all four corners of the above-mentioned intersection indicates that the property under consideration is a proper location for C-2 zoning because it is not the "spot zoning" associated with a change of zone on only one parcel. Furthermore, the presence of R-3 zoning adjacent to the subject site is an appropriate buffer from other residential uses in the general area. The services to be provided on the rezoned C-2 property are desirable to the community. Existing restaurants have been popular in the neighborhood, and the access to a well-known department store is a service needed by the community.

D.

C-2 zoning on the subject property will be in the interest of public health, safety and general welfare in that it will fulfill a policy of the General Plan to "promote neighborhood commercial facilities which provide convenience goods and services and complement community character through appropriate scale, design and locational controls." Another policy of the General Plan is that local commercial uses should be "located so as not to invade or disrupt sound existing residential neighborhoods nor conflict with established community land use, parking and circulation patterns." C-2 zoning for the entire subject property is good zoning practice because it brings consistency to adjacent commercial properties and it allows for the type of commercial development that would neither disrupt nor conflict with nearby residential areas and the established community land use allowing for neighborhood commercial facilities. The development of a department store at this location will bring access to goods and services that the community needs. Existing restaurants have served the community for a long time, and the ability to maintain and rebuild restaurants at this location will serve the public welfare.

## Conditional Use Permit - Burden of Proof

The subject site consists of 8.13 acres and is currently developed with two restaurants, dry cleaners, family medical center, office space, various small retail uses and rental housing. One restaurant, an approximately 15,000 square foot one-story building, will remain. The second restaurant will be demolished and rebuilt as a restaurant in an approximately 8,500 square foot one-story building. An approximately 98,500 square foot two-story, 45 feet in height building will be constructed to house a new, nationally-recognized department store, along with surface parking lots associated with the proposed commercial uses. Approximately 35,424 square feet will be dedicated to open space and landscaping, and approximately 246,067 square feet of surface parking will be distributed throughout the site to accommodate the parking requirements for the department store and the two restaurants. A conditional use permit is requested for development plan approval to modify the 35 foot height limit to permit architectural projections to a height of 45 feet and to allow for the sale and on-site consumption of a full line of alcoholic beverages in a new restaurant.

### A.1

The location of a department store and two restaurants are on an approximate 8 acre parcel designated by the General Plan as "Major Commercial." This site will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area. The existing commercial development has existed on this location without adverse impacts on residents or persons employed in the area. The site is located at the intersection of two major streets where access is convenient for both residents and workers in the area. The department store is setback from the street. The restaurants are setback from residential areas. The subject site is currently developed with numerous commercial uses, and has a long history of commercial activity. The presence of several restaurants on this site has not resulted in any significant problems to the neighborhood. The fire station which is immediately adjacent to the site has previously been surrounded by commercial uses without impact, and the new development will be appropriately buffered from the fire station. The development of a major department store reflects the evolving retail market and would be consistent with the design of commercial properties to the north and south on the major highway of Rosemead Boulevard. The restaurants have served the community, and will continue to serve local residents and employees with newer and improved facilities.

A modification of the height limit, which is imposed at a maximum of 35 feet in both the C-2 zone and the East Pasadena-San Gabriel Community Standards District, is necessary for the two story department store in order to accommodate the architectural treatment of a parapet roof at the north and south ends of the building. The height of the parapet roof will exceed the height limit by 7 feet in order to architecturally distinguish the two main entrances to the store. The height of the sloping tile roof is a feature that does not overshadow neighboring properties, and thus should not adversely affect the health, peace, comfort or welfare of persons residing in the adjacent multifamily residential units.

A conditional use permit is requested to allow for the sale and on-site consumption of a full line



of alcoholic beverages incidental to the operation of a family-oriented restaurant in a commercial zone. The proposed new restaurant, which is a replacement of an existing restaurant to be demolished, is the type of establishment located on a major thoroughfare. It offers a casual dining experience, catering to people who live and work in the surrounding neighborhoods, with a menu that appeals to both children and adults and alcoholic beverage service as a complement to food orders. The new restaurant will contain a full service kitchen that will be open during all hours of operation. Residents and employees in the general vicinity will enjoy frequenting, for lunch and/or dinner, a casual style and family-appropriate restaurant, such as the one proposed, in proximity to where they live and work. This family-oriented restaurant will be sufficiently buffered from residences and will be complementary to the nationally-recognized department store to be situated at this site. Restaurants have been operating on the subject site without adversely affecting the health, peace, comfort or welfare of persons residing or working in the surrounding area.

#### A. 2

The new restaurant and department store will bring needed goods and services to local residents and to persons working in the neighborhood. Property values should be increased by an attractive new development on a property currently occupied by older improvements. The department store, part of a major national chain, reflects the changing retail market consistent with the design of commercial buildings to the north and south along the major highway of Rosemead Boulevard.

Modification of the maximum height limit imposed by the zoning code and the Community Standards District will not be materially detrimental to the use, enjoyment or valuation of property or other persons located in the vicinity of the site, as the department store building is setback at a greater distance than required by the standards and the portion of the building that exceeds the maximum 35 foot is an architectural treatment to enhance the visual appeal of the structure. As such, there are no adverse impacts to the use, enjoyment or valuation of neighboring properties.

The planned restaurant use is allowed by right on the subject property, and the incidental alcoholic beverage service would be an expected component to a family-type restaurant. Two existing restaurants on the subject site are currently serving food and alcoholic beverages on the menu, without adverse impacts to the nearby residentially zoned properties.

#### A. 3

The General Plan advocates that local commercial uses should be "located so as not to invade or disrupt sound existing residential neighborhoods nor conflict with established community land use, parking and circulation patterns." The development of a nationally-recognized department store at this location will bring access to goods and services that the community needs and expects from a major national chain. The location of a major department store at this site would be consistent with the changing retail market to the north and south on the major highway of Rosemead Boulevard. Existing restaurants have served the community for a long time, and the

ability to maintain and rebuild restaurants at this location will serve the public welfare. There is a long history of commercial activity on this site and no significant problems have been generated by the restaurants that would constitute any menace to the general welfare. Improved commercial uses in an area designed by the General Plan for commercial uses will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

A modification of the height limit to accommodate the architectural treatment of a parapet roof at the north and south ends of the department store building should not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

The proposed restaurant offers a casual dining experience, catering to people who live and work in the surrounding neighborhoods, with a menu that appeals to both children and adults and alcoholic beverage service as a complement to food orders. This proposed family-style restaurant will be conveniently located to, but sufficiently buffered from residences, and complementary to a major department store. The restaurant, by virtue of its proximity to where residents and employees live and work, will be desirable to the public convenience and welfare, and as such will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

B.

The 8 acre site is adequate in size and shape to accommodate the 72,749 square feet of building pad proposed to be devoted to the department store and two restaurants, which is approximately 20% of lot coverage and thus significantly less than the maximum lot coverage of 90% of net area of the lot permitted in C-H, C-1 and C-2 zones. The lot coverage of all enclosed buildings is well within the maximum lot coverage of 75% of the net lot area that is required in the commercial and industrial zones governed by the development standards of the East Pasadena-San Gabriel Community Standards District. The total amount of lot area devoted to landscaping is 35,424 square feet, which represents a significant increase insofar as existing landscaping is virtually nonexistent. With the entrances of the department store oriented to the north and to the south to encourage its customers to park away from the parking areas designed to serve the two restaurants. All buildings are situated on the lot to provide easy access to the traffic circulation on Rosemead Boulevard, a major highway.

A modification of the height limit, which is imposed at a maximum of 35 feet in both the C-2 zone and the East Pasadena-San Gabriel Community Standards District, is necessary for the two story department store. While this structure is oriented to the major highway and to the parking to the front and sides, the department store is buffered by walls and landscaping from the rear lot line that is adjacent to R-3 zoning. In keeping with the regulations of the Community Standards District, the department store is setback from the rear lot line in accordance with the requirement that a structure that exceeds 17 feet in height located adjacent to a residential zone must be setback an additional foot from the minimum 5 foot setback for every additional foot in height. The adjacent residential land use is multifamily housing rather than single residential units, and

adherence to the setback standards of the Community Standards District ensures that the department store is properly integrated with the residential uses of the R-3 zone in the surrounding area.

#### C. 1

The proposed site for the department store and two restaurants is adequately served by Rosemead Boulevard, a state highway that fronts onto the property. The General Plan proposes that local commercial uses "should be easily accessible and should be situated at community focal points such as major intersections and established neighborhood shopping facilities." The intersection of Rosemead Boulevard and Huntington Drive, where the subject site is located, already serves the community with such widely used services as a bank, a fire station, office building, gas stations, liquor store, grocery store and various retail uses. In addition, the proposed site already functions as a commercial center, with two restaurants, dry cleaners, family medical center and various retail uses. The proposed development of a major department store reflects the changing retail market consistent with the design of other commercial properties to the north and south along the state highway of Rosemead Boulevard.

#### C.2

The proposed site and neighboring commercial properties are fully developed and adequately served with other public and private service facilities. Traffic circulation is easily accommodated by the existing major highway on Rosemead Boulevard. The proposed site is located 1.25 miles from the Foothill Freeway. Already developed with commercial uses, the proposed site is adequately served by sewer connections and water lines.

**Addendum Burden of Proof, Alcoholic Beverage Sales  
ZC and CUP 03-147**

**1. That the requested use at the proposed location will not adversely affect the use of a place used exclusively for religious worship, school, park, playground or any similar use within a 600-foot radius.**

The subject site has sustained three restaurants operating with licenses for the sale and on-site consumption of alcoholic beverages. Two of these restaurants operated with a license for a full line of alcoholic beverages, while the third restaurant provided for beer and wine only. These three restaurants functioned without adverse impact on the public health and welfare. Within 600 feet of the site, there are: 1) single family homes; 2) various retail uses including a grocery store; 3) a liquor store; 4) a fire station; 5) gas stations; commercial buildings such as a bank and office building. More importantly, none of the sensitive uses, including churches, schools, parks and playgrounds, is within the 600-foot radius of the proposed new restaurant.

With the subject site redeveloped according to plan, an existing restaurant serving food and a full line of alcoholic beverages will remain. The two other restaurant buildings will be demolished. The new restaurant to be built on this site offers a full line of alcoholic beverages. As the result of demolition and replacement of restaurants on the property, the net effect of the project will be one less facility offering alcohol to its customers, arguably lessening any concern of undue concentration of restaurants serving alcohol in the community..

**2. That the requested use at the proposed location is sufficiently buffered in relation to any residential area within the immediate vicinity so as not to adversely affect said area.**

Both the existing restaurant to remain and the new restaurant to be built are located on the portion of the site that faces directly on to Rosemead Boulevard, a major highway. Existing restaurants at this site have been sufficiently buffered from residential areas by expansive parking lots to the south and by other commercial property and the significant width of a major highway to the north. One of the existing restaurants to be demolished is nearer to residential areas than its replacement. The location of the new restaurant provides no less buffering from residential areas than what has existed, and as a result the new restaurant to be built on the site will not adversely affect any residential area within the immediate vicinity.

**3. That the requested use at the proposed location will not result in an undue concentration of similar premises, or that the public convenience or necessity for the proposed facility selling alcoholic beverages for off-site consumption outweighs the fact that it is located within a 500 foot radius of any other facility selling alcoholic beverages for either on-site or off-site consumption, in which case the shelf space devoted to alcoholic beverages shall be limited to not more than five percent of the total shelf space in the establishment.**

The overall development plan for the subject site results in a net reduction in the number of

restaurants that have in the past served alcoholic beverages for on-site consumption. These restaurants existed for years without adverse impact to the community. Surrounding commercial uses, including a bank, office building, gas stations, retail shops and a grocery store, are unlikely to be impacted. The only other liquor license within 500 feet of the site is an existing liquor store approximately \_\_\_\_ feet away. There is a long history of commercial activity on this site and no significant problems have been generated by the restaurants that would constitute any menace to the general welfare. The development of the new restaurant is a replacement for any existing one, and though the new restaurant will operate with a license for a full line of alcoholic beverages, the fact that two restaurants with alcoholic licenses are being demolished results in the net loss of one license for the on-site consumption of alcoholic beverages being used on this site.

**4. That the requested use at the proposed location will not adversely affect the economic welfare of the surrounding community.**

The three restaurants that have previously operated at this site were popular with the surrounding community. The proposed new restaurant offers a casual dining experience, catering to people who live and work in the surrounding neighborhoods, with a menu that appeals to both children and adults and alcoholic beverage service as a complement to food orders. This proposed family-style restaurant will be conveniently located to, but sufficiently buffered from residential areas, and complementary to a major department store. The restaurant, by virtue of its proximity to where residents and employees live and work, will not only be desirable to public convenience, but will not adversely affect the economic welfare of the surrounding community. As a service to the community and to visitors in the commercial area, the proposed new restaurant will be an economic benefit to the surrounding community.

**5. That the exterior appearance of the structure will not be inconsistent with the exterior appearance of commercial structures already constructed or under construction within the immediate neighborhood so as to cause blight, deterioration, or substantially diminish or impair property values within said neighborhood.**

The two restaurants, as well as other commercial buildings on this site, proposed to be demolished, are aging, deteriorating properties that need to be replaced. The new restaurant to be built will be architecturally consistent with the exteriors of other proposed commercial buildings to be constructed. The development of a major department store reflects the evolving retail market and would be consistent with the design of commercial properties to the north and south on the major highway of Rosemead Boulevard. Blight, deterioration and diminished property values are likely to occur in the absence of this site being redeveloped according to plan with a new and improved restaurant and a new major department store. The new buildings to be built on the site are consistent with the design standards of the East Pasadena-San Gabriel Community Standards District, and thus will be compatible with the appearance and aesthetics of the community.